circumstances, he said, it would be *ultra vires* to enact a clause of the kind proposed.

THE SECOND MEMBER OF COUNCIL replied that the arguments urged did not support the contention of Mr. Srinivasa Iyengar. There were so many other Departments which were beyond the pale of discussion and criticism in the Constitutional Houses but were still subject to legislation such as, for instance, the Army.

THE THIRD MEMBER OF COUNCIL pointed out that the proposed legislation was anything but *ultra vires*.

MR. P. SEETHARAMAIYA considered that there were very many practical difficulties in enforcing a law of this kind. Granting that the interests of the Palace required to be protected as those of the Government, he asked whether there were not others who deserved similar protection.

With regard to the need for protecing Palace interests, he pointed out that a legislation like this would adversely affect not only the interests of private parties but also those of the Palace itself; for instance, the Palace might own large extents of land, owners of adjoining lands might come into conflict with persons interested in the management of Palace lands, in connection with disputes over water supply, sharing of crops, and other similar questions. Then, it would be open to the Palace immediately to arrest the private party for assault on a public servant. That, he thought, would be unfortunate.

MR. E. KRISHNAPPA said that it was necessary to define the terms 'Palace' and 'Palace officer.'

THE THIRD MEMBER OF COUNCIL expressed his gratefulness to the members for the various points of view put before Government in regard to the proposed legislation. He said that although it was not possible to say that Palace service was the same as Government service, yet, there were several things in common between the two services. He assured the House that the details of the measure would be very carefully examined in the Select Committee.

On this assurance, the House agreed to the general principles of the Bill.

PRIVATE BILL—(*Resumed.*)

Statement furnished by Mr. Nilgiri G. Sanjeeviah of the general principles of a Bill to amend the Civil Procedure Code which he proposed to introduce in the Legislative Council.

MR. SANJEEVIAH, after obtaining the leave of the House to suspend the operation of Rule No. 9 of the Rules of Business of the Assembly, moved for the consideration of the statement of the general principles of a Bill to amend the Civil Procedure Code which he proposed to introduce in the Legislative Council.

MR. S. VENKATESAIYA said that Section 9 of the Regulation required that the general principles of a Bill should be placed by Government before the Assembly and he asked whether the Government would certify that the principles were in accordance with the Bill.

THE THIRD MEMBER OF COUNCIL said that Section 9 of the Representative Assembly Regulation required that the principles of the Bill should be placed before the House by Government and said that it had been done.

MR. VENKATESAIYA said that that was not sufficient; but that the Government should be responsible for the principles of the Bill; in other words, that Government should make themselves responsible to see that the principles were in accordance with the proposed Bill. His difficulty in the present case was that the Bill was not placed before the House. It was just possible that the statement now made might be different from the proposed Bill.

THE SECOND MEMBER OF COUNCIL observed that the business of the Government in the case of private Bills was to place the general principles before the House. Government, of course, could not explain the principles better than in the words of the mover himself.

THE FIRST MEMBER OF COUNCIL said that Mr. Venkatesaiya might take it that the principles were in accordance with the Bill.

MR. VENKATESAIYA again urged that the Government should specifically say that the principles corresponded with the Bill.

THE FIRST MEMBER OF COUNCIL said that under the law the general principles should be placed before the House and that had been done. Government were not committed to the principles of the Bill at all. They simply published the statement given to them by Mr. Sanjeeviah.

MR. SANJEEVIAH then thanked the Assembly and the Government for waiving the rule about giving notice of the motion and explained its objects. (*vide* Proceedings of 15th October 1929 for Statement of Objects and Reasons.)

Continuing Mr. Sanjeeviah said that in the sacred books of all religions, it was stated that no one should die

in debt. It should be, however, conceded, he said, that many people would be compelled to contract debts and die without paying them. This would not only put the creditors to considerable trouble but also add a sort of stigma to the debtors. The object of the Bill, he said, was to help such people. There was, no doubt, a law stating that the pension of a retired officer should not be attached for his debts; but he failed to understand the principle underlying that law. If it was meant to maintain his dignity, then he thought that the same dignity would be considerably impaired by his defrauding his creditors. In these circumstances, he did not see why pensions alone should be exempted. A man might be getting Rs. 500 pension and yet not a pie out of it could be attached. He did not see why such a man should be allowed to die indebted to his creditors. He was sure that no officer of Government would object to the wholesome principle proposed to be embodied in the Bill. He, therefore, commended his motion to the acceptance of the House.

MR. S. C. MALLIAH in seconding the motion said that according to ethical principles every person was morally bound to discharge the debts contracted by him and that the popular belief was that otherwise he could not achieve salvation after death. As it involved a high moral law, he commended the Bill to the acceptance of the House.

MR. S. N. M. RAZVI in opposing the general principle of the Bill said that though it was ostensibly aimed at espousing the so-called moral law it was really meant to deprive the pensioner of his pension which the benign Government made to let him live in comfort after a very long period of hard work. He said that experience showed him that in many cases a man's indebtedness was due to circumstances beyond his control and that every well-meaning person in such a plight deserved sympathy. He added that if, as professed by the mover, his object was to protect the interests of the creditors, it would have been more appropriate if a Bill amending the Insolvency Regulation had been brought by him, in which case it was possible for the judgment-creditor to wreak his vengeance on the debtor by securing his arrest and committal to prison. He failed to understand why people should lend money to an officer on the eve of his retirement or after retirement knowing that his pension was not attachable in case the debt was not paid. He added that if a creditor in spite of this gave him a loan, he deserved to lose it in case it was not repaid.

The author of this measure, he said, wanted to penalise a special class of hard-worked and aged people, who had once occupied a good position and had wielded power and influence. He felt that it was due to the lack of appreciation on the part of the mover of the lofty ideals of Government in instituting a system of pensions in recognition of the loyal and continued service rendered by their employees till their old age. He drew the attention of the House to the fact that an officer of Government who retired after a service of 30 years would not be fit to eke out his livelihood further on and that it was inhuman to deprive such a person of his only source of maintenance.

MR. P. SEETHARAMIAH did not agree with Mr. Razvi. He said that the object of the Bill was to remove the distinction now made between a retired officer and a private individual in the matter of the recovery of debts. It was true that people did not lend money to retired officers without security, but sometimes it would so happen that seeing the position that the pensioner occupied while in service, loans were granted without taking adequate security. It was human nature, he said, to delay repayment of loans as long as possible in spite of the appreciation of the fact that a man should not die in debt. If, in the case of a pensioner, a loan was not repaid within specified time, there was no help to the creditors as the pension was not attachable. He failed to understand why a distinction should be made in this matter between a rich man enjoying a very high position and a pensioner who also enjoyed a similar position while in service. If Mr. Razvi's contention that the pension was meant for the family to live in comfort could be accepted, he asked whether the same pension would be continued to his family even after the pensioner's death. As a matter of fact, it was not. That showed that the pension was meant solely for the pensioner, and if such a pensioner contracted debts and failed to repay them, he thought that his pension must be made just as liable as any other property of a private individual. He was of opinion that the law proposed to be enacted would considerably discourage indiscriminate borrowing. He, therefore, supported the motion.

MR. M. S. LINGE GOWDA who also spoke in favour of the Bill said that it would go a long way towards encouraging thrift in the officer while in service, who had now unfortunately developed a tendency to live above his means by allowing his expenses to run out of all proportion to his

income. He said that while in active service a Government official could raise loans more easily than a non-official, which resulted in his leaving a bad legacy to his heirs. He had no doubt that the proposed legislation would prevent this class of men from contracting debts in their old age for fear of their family provision being cut short.

MR. BELUR SRINIVASIENGAR who vehemently opposed the Bill said that the object of the amendment was inconsistent with the general principles of the existing law and that though according to Section 60 of the Civil Procedure Code, several items were immune from attachment by a civil court decree, objection was taken only to the existence of one item of pension. This showed clearly that the mover's argument that he sought to bring about equity between the officials and non-officials in the eye of the law was baseless and that the position taken up by Mr. Sanjeeviah would be justified only if he moved for the deletion of the entire Section 60. He did not see why the pensioners alone should be penalised, as there would be no special relief to the creditor by the proposed measure. He feared that it would change the whole policy of the law. According to the proposed measure there would be a disadvantage to only one class of people. Supposing a man went on leave, this law would not apply to him. Then where is the policy of the law? Why should a railway servant be left out? For these reasons he thought that there would be considerable inconsistency if the proposed measure was accepted. He also pointed out that in British India, while several other sections had undergone alterations, this section, *viz.*, 60 of the Civil Procedure Code, alone was not touched.

He added that in his opinion there was absolutely no need to amend the existing rule, since the mover had not shown by facts and figures as to how many thousands out of 56 lakhs of people were suffering under the present circumstances. In conclusion he appealed to the House not to become the authors of a queer legislation and bring into stake the reputation of the Model State of Mysore.

MR. S. V. GURUMURTHIACHARYA who supported the motion said that the officers of Government were thoroughly conversant with the laws of the country and if in spite of that knowledge, they took to cheating the creditors, they did not deserve any sympathy. On the other hand, the money-lenders were mostly ignorant of the rule that the pensions were exempt from attachment and were victimised by reason of their ignorance. He was of opinion that the Bill under

discussion was in the interest of both the officials and non-officials. So far as the former were concerned, he added that they would be able to command credit even after retirement if their pensions were made attachable.

With reference to Mr. B. Srinivasiengar's objection he said that railway servants, military officers and all those who were mentioned in Section 60 might also be brought under the proposed measure.

MR. MIRLE LAKSHMINARANAPPA opposed the Bill on the ground that it sought to unduly favour the money-lenders and set at nought all other principles even though remedies, already provided by the civil courts for creditors, were quite adequate. He said that the principle underlying the new measure was illogical in that it aimed at attaching the only wherewithal of a pensioner who had lost his capacity to earn and failed to appreciate the spirit of the rule which did not allow more than one-half of the salary from being attached during his active service. He apprehended that if this Bill was passed, it would not stop with the pension of a Government officer but its penal clauses would extend to other items like *inamties* or gifts for patriotic services rendered, political pensions, etc., which was quite undersirable.

MR. T. NANJAPPA agreed with the view expressed by Mr. Gurumurthiacharya.

MR. M. P. SOMASEKHARA RAO pointed out that the rule granting immunity to pensions was borrowed from British India and that it was necessary to examine the motives that actuated the framers of that rule. He said that as the statement of the general principles of the Bill was put into the hands of the members only 3 days previously, there was not sufficient time to collect facts and figures relating to the matter and therefore wanted more time for its consideration. Generally speaking, he said that a consideration of the items that had been exempted from attachment went to show that the framers of the original law had in mind a standard of living based on the consideration of half the salary while in Government service. In this view he said that the intention of Government in granting pensions was to enable its officers to keep up a certain standard of life even after retirement, and that it was just and proper that this amount should be fully exempt from attachment. Before concluding he re-iterated the statement that the measure should not be allowed to rush through the Assembly in this session. He added that after all there might be only

a couple of cases of pensioners not paying their debts at all and that for the sake of that number, a general alteration of the law was not called for.

KHAN BAHADUR MAHOMED ABBAS KHAN supporting the Bill said that while formerly the pension charges amounted to barely Rs. 5 or 6 lakhs, they had now gone up to Rs. 16 lakhs. The number of people who got this pension was about 16,000 calculating at the rate of Rs. 100 per head. These people lived not only in Mysore and Bangalore Cities but also all over the State. These pensioners did not generally get loans easily as their pensions were not attachable. He thought that by a provision of the kind now suggested all these people would be benefited. He conceded that the attachment of the entire pension would press hard upon them and hence suggested that only a certain proportion of it should be made attachable. There was no doubt that these people also should repay their loans and he did not see any difficulty for them in doing so; for under the existing rules, a quarter of their pension was commutable and he was of opinion that their pension should be attachable at least to that extent if they failed to repay their debts. He also pointed out that in the Co-operative Societies, the retired officers getting even Rs. 500 could not easily get loans without collateral securities. This, he thought, was very deplorable. For these reasons, he thought that both the creditors and the debtor-retired-officers would be benefited by the proposed provision.

In opposing the motion, MR. M. L. NAGAPPA SETTY said that there were not at present a large number of people that suffered in the absence of a provision of the kind suggested. If, owing to the absence of a provision, the creditors suffered, remedy should be sought in other directions on behalf of such creditors. The harm that would be done by passing this law would be that pensioners who hitherto knew that their pension was not attachable for debts, and for that reason could not command credit outside would now be enabled to contract debts and put themselves to unnecessary hardship in their old age. This, he thought, should be prevented.

MR. S. VENKATESAIYA opposed the general principles underlying the amendment and said that the argument that it was meant to protect the interests of innocent creditors was an ostensible one. He did not think that a creditor who lent money to a pensioner as a speculative investment should be protected in any manner, more especially as he

knew that the pension was immune from attachment. If it was the mover's intention to help the creditors whether speculative or innocent—the right thing to do was to move for an amendment of the Insolvency Regulation. He said that the law did not provide remedies for lack of watchfulness on the part of a money dealer.

Referring to Mr. Abbas Khan's argument that the measure would enable pensioners to command credit, Mr. Venkatesaiya said that it was unsound in principle and was opposed to the golden rule of cutting the coat according to the cloth. He added that the moment the productive activities of a man were reduced, no scope should be given to increase his liabilities. On the other hand, every indebted man deserved a certain amount of sympathy and it was on this principle a special provision had been made in the Agriculturists' Relief Act recently passed, exempting a portion of the produce from attachment till the next harvest, with a view to provide for the support of the judgment-debtor and his family. He wished to bring home to the members the point that simply because a man was indebted, he should not be allowed to starve. He further added that it was not a parity to say "because you attach half the pay, so attach half the pension also."

In conclusion, he exhorted the members to bear in mind that in the larger interests of the State, the best intellect and the foremost men must come to the public services; that they should get special emoluments and security of tenure; and that unless these were secured, the glamour of the service would go away. In this view, he impressed on the House the undesirability of the proposed measure, and condemned the principles on economic considerations as well since there was no good giving debts to a man of non-productive activities.

MESSRS. RAMA DAS, VEMA REDDY, K. VENKATASAWMI GOWDA and D. S. MALLAPPA pleaded for support to the measure on the ground that the retired officers of Government, on the security of their pensions being immune from attachment, should not be allowed to swindle the creditors. It was also stated that certain officers on the eve of retirement coerced creditors into giving them loans which could not be refused at the time.

MR. H. C. DASAPPA disputed the statement of Mr. Venkatesaiya that only speculative creditors would deal with Government servants and not innocent creditors. Because, in point of fact, what happened was an officer of

Government very often used his official authority for self-aggrandisement and raised large sums of money on credit. It was necessary to discourage their indebtedness since they had all conveniences of life while in service. He said that one of the evil effects of modern civilisation had been the rise in the standard of living but that the Bill under legislation sought to encourage thrift in Government employees. He was of opinion that a pensioned officer did not deserve to maintain his dignity from the point of view of the pension alone if he was not prepared to pay his debts, but that he should show his dignity in his behaviour towards the society in actual life.

MR. SATYANARAYANA SETTY regretted that he had to oppose the Bill. He said that to carry on the administration efficiently, it was necessary to employ first-rate men and this would be possible only if the services were made attractive. He pointed out that most of the officers had to spend beyond their means just to keep up a certain amount of convention and dignity with the result that many officers had only their pension to fall back upon after retirement. The object of Government in giving immunity to pensions from attachment was to provide them with the necessaries of life.

Referring to the remark made by one of the members that officers at the time of their retirement influenced the creditors to give them loans, he said that personally he did not believe that was a fact. Himself being a money-lender, he had several applications from officers for loans which he had refused point-blank and yet did not feel any inconvenience from them.

MR. B. P. BASAPPA SETTY said that the majority of the raiyats being illiterate, the officers took advantage of their ignorance and took loans from them without the least idea of repaying them. For this reason he supported the Bill.

THE SECRETARY TO GOVERNMENT, LAW DEPARTMENT, said that a scrutiny of the objects and reasons of the proposed measure revealed that it was intended solely to protect the interests of the creditors and not by any means for the benefit of the pensioners. He was not prepared to take seriously the arguments of the sponsors of the measure to the effect that it was meant to help the debtors to attain salvation after death which could not be had if they died without discharging their liabilities. It was rather dogmatic to say that the borrowers as a class were bad or the lenders as a class were bad, but that good and bad people were to

be found in both the classes. It was far from his mind, he said, to dispute the statement that every man must discharge his debts but at the same time, he was not prepared to condemn outright a person who became indebted due to circumstances beyond his control. He pointed out that this Bill however was meant to apply only to the case of Government officers and pensioners, especially those drawing a pension of Rs. 400 and above probably. He remarked that there was much force in the speech of Mr. Razvi who said that it was for the good of the country and in the interest of the fair name of Government that an officer who occupied a high position in official life should be allowed to remain in comfort and keep up a certain amount of status consistent with his past connections. He impressed on the House that it was with this laudable object that the Government of India had exempted pensions from attachment and the same provision had been adopted in Mysore. He honestly believed that it was neither just nor proper for anybody to meddle with the pension of an officer which was a special grant endowed by a benign government for his maintenance in recognition of long and faithful services rendered. He further stressed the point that there was no truth in the statement that the number of officers who failed to discharge their personal liabilities was large. From his personal knowledge and experience as a judicial officer he was in a position to say that their number was less than ½ a per cent. He pointed out that the money-lender had no business to advance loans to a person who had no property and depending solely upon the pension. He was not prepared to accept the statement that the money-lender was ignorant of the law. As a rule, the money-lender knew the several ways of securing the money and it was quite open to him to get the party arrested or his property attached. He argued that simply because there were one or two stray cases of officers who were guilty, it was not right on principle to pass a law calculated to affect all pensioners on Rs. 400 and above and that the mover had not furnished facts and figures to justify the proposed legislation, and suggested that the object of the mover would be better achieved by suggesting the amendment of the Insolvency Regulation. He pointed out that many retired officers were leading honourable lives and were a credit to the Government under which they had served, and that the reflection on the entire class of retired officers suggested in the speeches of the mover and some of his supporters was altogether unfounded, improper, and

unjustifiable. He said that the retired officers, as a body, maintained a good reputation and commanded sufficient credit as a rule, and that it was not right to condemn the whole class and subject them to undeserved hardships on account of the default of one or two individuals. His contention was that there was no equity in favour of the few money-lenders who recklessly advanced loans to persons without any kind of security or credit, relying only upon their pensions, fully knowing that they are exempt from attachment under the law, and hence there was no necessity to go to the rescue of such speculative creditors by means of special legislation. In conclusion, he stated that no case had been made out in support of the Bill and that it was not based on sound legislative principles; and further remarked that Government were not in favour of such a measure.

MR. N. G. SANJEEVIAH in replying to the debate regretted the speech of the Law Secretary made on behalf of Government. Referring to the pleadings of Mr. Razvi that the retired officers should be allowed to live in comfort in view of the long services rendered to Government, he said that the officer should not be encouraged to purchase such comfort at the expense of the creditors but that he should take care to lay by enough savings during his long term of service and that if he failed to do so and led an extravagant life, he did not deserve sympathy. He added that the most objectionable feature of the existing law was that it made an invidious distinction between a pensioner and a private person. Whereas, in the case of the former, the entire pension was exempt from attachment, with a view to allow him to keep up the status that he had enjoyed while in service, in the case of the latter, everything barring his wearing apparel was made liable to attachment irrespective of the fact that he might have occupied a much more respectable position in life than the officer till a few years previously. Referring to the observation of some members that the Government service should be made attractive, the speaker thought that in that case it could no longer be called patriotic service.

With reference to Mr. Belur Srinivasiengar's argument, he said that there was absolutely no objection to include the other items mentioned by him if considered necessary. He thought that inamties, family pensions and political pensions stood altogether on a different footing and should not be brought under the purview of the measure. In this connec-

tion, he commended the example set up by the late C. R. Das who considered all his dues as debts of honour and discharged them even long after they had ceased to be legally liable.

In conclusion he expressed surprise at the attitude taken up by the Law Secretary who, as a judicial officer, was expected to sympathise with a moral law. He, however, appealed to Government to reconsider their decision and accept the general principles of the measure although such a law was not in force in British India.

The motion was then put to vote and passed by a majority, 100 voting for and 68 against.

At this stage the Assembly rose for lunch and re-assembled at 3-45 p.m.

THE FIRST MEMBER OF COUNCIL brought to the notice of the House that Messrs. K. T. Bhashyam Iyengar and other members had asked for permission to move the following adjournment motion:—

"That the business of the House be adjourned for discussing an urgent matter of public importance, to wit the helpless condition of the numerous litigants throughout the State who by reason of the latest Full Bench decision of the Chief Court reported in *Mysore Law Journal*, 489, have been faced with serious loss and the necessity for an Emergency Regulation to provide immediate relief for the same."

He said that the matter had already come to the notice of the Government, that it was under examination and that it was not possible to foresee what form of relief was feasible until it was thoroughly investigated. He added that even if a discussion was allowed on the subject, the only reply that Government could give was that the matter was under consideration, and that therefore there was no use taking up the adjournment motion.

MR. K. T. BHASHYAM IYENGAR thanked the First Member of Council for his kind assurance and said that if it was the idea of the Government to collect public opinion on the matter, it might be placed before the House.

MR. SYLVESTER PAIS observed that, if Government were in favour of affording adequate relief by means of legislation, it would take considerable time as the matter had to be previously discussed in the Assembly which would not meet till June next.

THE FIRST MEMBER OF COUNCIL observed that Government had first to decide what relief was possible and then decide what action should be taken for affording it.